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Proposed Counsel to Gavin B. Whiston	

UNITED STATES BANKRUPTCY COURT SOUTHERN DISTRICT OF NEW YORK

In re:		
		Chapter 11
GAVIN B. WHISTON,		
		Case No. 24-10803 (MEW)
	Debtor.	

DECLARATION OF GAVIN B. WHISTON PURSUANT TO RULE 1007-2 OF LOCAL BANKRUPTCY RULES FOR SOUTHERN DISTRICT OF NEW YORK

- I, Gavin B. Whiston, make this declaration pursuant to 28 U.S.C. § 1746:
- 1. I am an individual over the age of 18 residing at 240 West Woodland Drive, Wading River, New York 11792.
- 2. Except as otherwise indicated herein, the facts set forth in this Declaration are based upon my personal knowledge, my review of relevant documents, and information provided to me by advisors and counsel, or my opinion based upon my experience, knowledge, and information. If called upon to testify, I would testify competently to the facts set forth in this Declaration.
- 3. This Declaration is submitted pursuant to Rule 1007-2 of the Local Bankruptcy Rules for the Southern District of New York ("Local Rules") for the purpose of apprising the Court and parties in interest of the circumstances that led to the commencement of my Chapter 11 Case.
- 4. On May 8, 2024 ("**Petition Date**"), I filed a voluntary petition under subchapter V of chapter 11 of title 11 of the United States Code §§ 101 *et seq.* ("**Bankruptcy Code**").

Local Rule 1007-2(a)(i)

I was a defendant in a lawsuit brought in the Supreme Court for the State of New York County of New York, styled *Esther O. Mahoney, et al. v. Gavin Whiston, et al.*, Index No. 652621/2014 ("**State Court Action**"), wherein Plaintiffs alleged, *inter alia*, breach of fiduciary duty against me and several other defendants. Ultimately a judgment was entered in favor of Plaintiffs, and myself and my co-defendants appealed but lost.

After defending the State Court Action for more than a decade, and despite best efforts to settle with Plaintiffs, I found myself unable to continue to respond to Plaintiffs ongoing demands for discovery; nor could I afford the settlements proposed by Plaintiffs. The onerous demands for discovery have proven as labor-intensive and costly as the underlying litigation, as Plaintiffs continue to search for assets that simply do not exist. The time demanded of me has made operating my business to provide for myself and my family untenable, and I cannot afford to respond to and defend against discovery that seems never-ending. Thus, I sought bankruptcy protection with the goal of proposing a plan to pay all creditors, including Plaintiffs, over time if we cannot arrive at a settlement I can afford. I also hope that the transparency of the bankruptcy process will finally convince Plaintiffs that I truly cannot afford the amounts they demand.

<u>Local Rule 1007-2(a)(ii)</u>

Not applicable.

Local Rule 1007-2(a)(iii)

Not applicable.

Local Rule 1007-4(a)(iv)

A list of the twenty largest unsecured creditors is annexed hereto as **Exhibit A**, and I am the person most familiar with the accounts related to these creditors.

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<u>Local Rule 1007-4(a)(v)</u>

The holders of secured claims are set forth in Exhibit B.

<u>Local Rule 1007-4(a)(vi)</u>

A summary of assets and liabilities is set forth in **Exhibit C**.

Local Rule 1007-4(a)(vii)

Not applicable.

Local Rule 1007-4(a)(viii)

Not applicable.

<u>Local Rule 1007-4(a)(ix)</u>

Not applicable.

Local Rule 1007-4(a)(x)

My substantial assets are held at my home address, 240 West Woodlawn Drive, Wading River, New York 11792.

I maintain my books and records. Richard Stampel, CPA, located at 178 Roxbury Road, Garden City, New York 11530 is my tax preparer and may also have copies.

My only asset located outside of the United States is a bank account at Allied Irish Bank disclosed on Schedule B to my Petition, which I will be closing in late May when I return to Ireland so that I can deposit the funds into my debtor-in-possession bank account.

<u>Local Rule 1007-4(a)(xi)</u>

As noted in my Statement of Financial Affairs, Ken Foley ("Foley") holds a judgment against me in the amount of \$153,523.92 and Dubcork, Inc. ("Dubcork" with Foley, "Judgment Creditors") holds a judgment against me in the amount of \$4,588,152.15. Counsel to Judgment

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Creditor indicated his intention to seek turnover of my Schwab IRA, disclosed on <u>Schedule B</u> to my Petition. I believe that seizure of other assets may also be imminent.

Local Rule 1007-4(a)(xii)

Not applicable.

Executed this 10th day of May, 2024.

<u>/s/ Gavin B. Whiston</u> Gavin B. Whiston

EXHIBIT A 20 LARGEST UNSECURED CREDITORS

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Fill in this information to identify your case:						
Debtor 1	Gavin B Whiston					
_	First Name	Middle Name	Last Name			
Debtor 2						
(Spouse, if filing)	First Name	Middle Name	Last Name			
United States E	Bankruptcy Court for the: \$	Southern District of New York				
Case number	24-10803					
(If known)						

Check if this is an amended filing

Official Form 104

For Individual Chapter 11 Cases: List of Creditors Who Have the 20 Largest Unsecured Claims Against You and Are Not Insiders

If you are an individual filing for bankruptcy under Chapter 11, you must fill out this form. If you are filing under Chapter 7, Chapter 12, or Chapter 13, do not fill out this form. Do not include claims by anyone who is an *insider*. Insiders include your relatives; any general partners; relatives of any general partners; partnerships of which you are a general partner; corporations of which you are an officer, director, person in control, or owner of 20 percent or more of their voting securities; and any managing agent, including one for a business you operate as a sole proprietor. 11 U.S.C. § 101. Also, do not include claims by secured creditors unless the unsecured claim resulting from inadequate collateral value places the creditor among the holders of the 20 largest unsecured claims.

Be as complete and accurate as possible. If two married people are filing together, both are equally responsible for supplying correct information.

Part 1:

List the 20 Unsecured Claims in Order from Largest to Smallest. Do Not Include Claims by Insiders.

		Unsecured claim
1	What is the nature of the claim? Judgment Liens	_{\$} 4,588,152.15
Dubcork, Inc.	As of the date you file the plains in Obselvall that and	·
Creditor's Name	As of the date you file, the claim is: Check all that apply.	
299 Broadway Suite 1820	☑ Contingent	
Number Street	☑ Unliquidated	
dba Smithfield Tavern, Smithfield Hall NY	Disputed	
	☐ None of the above apply	
New York NY 10007		
City State ZIP Code	Does the creditor have a lien on your property?	
Joshua E Abraham	☑ No	
Contact	☐ Yes. Total claim (secured and unsecured): \$	
040 045 0740	- 0	
646-245-6710 Contact phone	Value of security:	
Contact priorie	Unsecured claim \$	
2	What is the nature of the claim? Judgment Liens	
	What is the nature of the claim: dudgment Liens	— _{\$_} 153,523.92
Ken Foley	As of the date you file the claim is Check all that apply	
Creditor's Name	As of the date you file, the claim is: Check all that apply.	
30-67 42nd St.	☑ Contingent	
Number Street	Unliquidated	
Apt. 3-R	Disputed	
Astoria NY 11103	☐ None of the above apply	
City State ZIP Code	Does the creditor have a lien on your property?	
Joshua Abraham	No	
	Yes. Total claim (secured and unsecured): \$	
Contact		
646-245-6710	Value of security:	<u></u>
Contact phone	Unsecured claim \$	
	•	

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Debtor 1 Gavin B Whiston
First Name Middle Name Last Name

Case number (if known) 24-10803

					Unsecured claim
Peconic Bay Medic	al Center		What is the nature of the claim? Medical	Services	<u>\$1,640.00</u>
223 Townsend Squ	ıare		As of the date you file, the claim is: Check	all that apply.	
Number Street			Contingent		
c/o Jerald J DeSoci	o & Asso	ciates, P.C.	☐ Unliquidated☑ Disputed		
Oyster Bay	NY	11771	☐ None of the above apply		
City	State	ZIP Code	Does the creditor have a lien on your pro	perty?	
Jerald DeSocio			No		
Contact			☐ Yes. Total claim (secured and unsecured): Value of security:	\$	
516-628-2356 Contact phone			Unsecured claim	\$ \$	
1					
JPMCB Card Service Creditor's Name	ces		What is the nature of the claim? Credit C		\$ <u>246.00</u>
301 N Walnut St			As of the date you file, the claim is: Check	all that apply.	
Number Street			☐ Contingent☐ Unliquidated		
Floor 09			☐ Disputed		
Wilmington	DE	19801	None of the above apply		
City	State	ZIP Code	Does the creditor have a lien on your pro	perty?	
			✓ No✓ Yes. Total claim (secured and unsecured):	\$	
Contact			Value of security:	\$ \$	
800-945-2000 Contact phone			Unsecured claim	\$	
NY State Dept of T	axation &	Finance Bar	What is the nature of the claim? Taxes &	Other Government Units	\$ <u>0.00</u>
PO Box 5300			As of the date you file, the claim is: Check	all that apply.	
Number Street			Contingent		
			☐ Unliquidated☐ Disputed		
Albany	NY	12205	None of the above apply		
City	State	ZIP Code	Does the creditor have a lien on your pro	perty?	
			☑ No		
Contact			Yes. Total claim (secured and unsecured):	\$	
			Value of security: - Unsecured claim	\$ \$	
Contact phone				Ψ	
Internal Revenue S	Service		What is the nature of the claim? Taxes &	Other Government Units	\$ <u>0.00</u>
Centralized Insolve	ncv Onei	rations	As of the date you file, the claim is: Check	all that apply.	
Number Street	лоу орсі	4110113	☐ Contingent☐ Unliquidated		
PO Box 7346			Disputed		
Philadelphia	PA	19101	None of the above apply		
City	State	ZIP Code	Does the creditor have a lien on your pro	perty?	
			☑ No	•	
Contact			☐ Yes. Total claim (secured and unsecured): Value of security:	\$	
Contact phone			Unsecured claim	\$ \$	
Contact priorie					
Creditor's Name			What is the nature of the claim?		\$
Creditor S Natifie			As of the date you file, the claim is: Check Contingent	all that apply.	
Number Street			☐ Unliquidated		
			☐ Disputed		
			☐ None of the above apply		
City	State	ZIP Code	Does the creditor have a lien on your pro	perty?	
			No		
Contact			Yes. Total claim (secured and unsecured):	\$	
			Value of security:	\$	
Contact phone			Unsecured claim	Φ	

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Case number (if known) 24-10803 Gavin B Whiston Debtor 1 First Name Middle Name Last Name **Unsecured claim** What is the nature of the claim? Creditor's Name As of the date you file, the claim is: Check all that apply. Contingent ■ Unliquidated ☐ Disputed ■ None of the above apply Does the creditor have a lien on your property? ■ No ☐ Yes. Total claim (secured and unsecured): Value of security: Unsecured claim Contact phone What is the nature of the claim? Creditor's Name As of the date you file, the claim is: Check all that apply. Contingent Number ■ Unliquidated ☐ Disputed ■ None of the above apply ZIP Code Does the creditor have a lien on your property? ■ No lacksquare Yes. Total claim (secured and unsecured): Contact Value of security: Unsecured claim Contact phone What is the nature of the claim? As of the date you file, the claim is: Check all that apply. ☐ Contingent Number ☐ Unliquidated Disputed ■ None of the above apply Does the creditor have a lien on your property? 7IP Code City ☐ Yes. Total claim (secured and unsecured): Value of security: Unsecured claim Contact phone What is the nature of the claim? As of the date you file, the claim is: Check all that apply. Contingent Number ■ Unliquidated ■ Disputed ■ None of the above apply ZIP Code Does the creditor have a lien on your property? ☐ No ☐ Yes. Total claim (secured and unsecured): Contact Value of security: Unsecured claim Contact phone 12 What is the nature of the claim? _ As of the date you file, the claim is: Check all that apply. Creditor's Name Contingent ■ Unliquidated Number ☐ Disputed lacksquare None of the above apply Does the creditor have a lien on your property? City 7IP Code ■ No ☐ Yes. Total claim (secured and unsecured): Value of security: Contact Unsecured claim Contact phone

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Case number (if known) 24-10803 Gavin B Whiston Debtor 1 First Name Middle Name Last Name **Unsecured claim** 13 What is the nature of the claim? As of the date you file, the claim is: Check all that apply. ☐ Contingent Number ■ Unliquidated ■ Disputed ■ None of the above apply Does the creditor have a lien on your property? 7IP Code □ No lacksquare Yes. Total claim (secured and unsecured): Contact Value of security: Unsecured claim Contact phone What is the nature of the claim? Creditor's Name As of the date you file, the claim is: Check all that apply. ☐ Contingent ■ Unliquidated ☐ Disputed ■ None of the above apply ZIP Code Does the creditor have a lien on your property? ■ No ☐ Yes. Total claim (secured and unsecured): Value of security: Unsecured claim Contact phone What is the nature of the claim? Creditor's Name As of the date you file, the claim is: Check all that apply. ☐ Contingent ■ Unliquidated ☐ Disputed ■ None of the above apply Does the creditor have a lien on your property? State ZIP Code ■ No lacksquare Yes. Total claim (secured and unsecured): Contact Value of security: Unsecured claim Contact phone What is the nature of the claim? _ Creditor's Name As of the date you file, the claim is: Check all that apply. Contingent Number ■ Unliquidated ☐ Disputed ☐ None of the above apply ZIP Code Does the creditor have a lien on your property? City ■ No lacksquare Yes. Total claim (secured and unsecured): Contact Value of security: Unsecured claim Contact phone What is the nature of the claim? _ Creditor's Name As of the date you file, the claim is: Check all that apply. Contingent ☐ Unliquidated Number Street ☐ Disputed ■ None of the above apply Does the creditor have a lien on your property? ZIP Code State □ No lacksquare Yes. Total claim (secured and unsecured): Contact Value of security: Unsecured claim Contact phone

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Debtor 1	Gavin B W	histon		Case number (if known) 24-1	0803
	First Name	Middle Name	Last Na	me (
					Unsecured claim
18				What is the nature of the claim?	 \$_
Creditor's	Name			As of the date you file, the claim is: Check all that apply.	
Number	Street			☐ Contingent ☐ Unliquidated	
				☐ Disputed	
				☐ None of the above apply	
City		State	ZIP Code	Does the creditor have a lien on your property? ☐ No	
Contact					
				Value of security: - \$	
Contact p	phone			Unsecured claim \$	
40				What is the nature of the claim?	
19					
Creditor's	Name				Ψ
				As of the date you file, the claim is: Check all that apply.	
Number	Street			Contingent	
				☐ Unliquidated☐ Disputed	
				☐ None of the above apply	
City		State	ZIP Code		
City		State	ZIP Code	Does the creditor have a lien on your property?	
				No No	
Contact				Yes. Total claim (secured and unsecured): \$	
				Value of security:	
Contact p	phone			Unsecured claim \$	
20				What is the nature of the claim?	_
				As of the date was file the alains in Obs. I will be a	\$
				As of the date you file, the claim is: Check all that apply. Gontingent	
Creditor's	N			☐ Unliquidated	
Creditors	siname			☐ Disputed	
Number	Street			None of the above apply	
				Does the creditor have a lien on your property?	
				□ No	
City		State	ZIP Code	Yes. Total claim (secured and unsecured): \$	
				Value of security:	
Contact				Unsecured claim \$	
Contact p	phone				

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Debtor 1

Case number (if known) 24-10803

Part 2:	Sign Below		
Under	penalty of perjury, I declare that the	information provided in this form is true and correct.	
x /s/ (Gavin B Whiston	×	
Signatu	ure of Debtor 1	Signature of Debtor 2	
	05/10/2024 M/ DD / YYYY	Date <u>05/10/2024</u> MM / DD / YYYY	

EXHIBIT B SECURED CREDITORS

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nformation to	identify your case	e:
Gavin B Whis	ston	
First Name	Middle Name	Last Name
filing) First Name	Middle Name	Last Name
es Bankruptcy (Court for the: Sout	hern District of New York
er 24-10803		
f	Gavin B White First Name First Name es Bankruptcy (illing) First Name Middle Name es Bankruptcy Court for the: Sout

Official Form 106D

Schedule D: Creditors Who Have Claims Secured by Property

12/15

Be as complete and accurate as possible. If two married people are filing together, both are equally responsible for supplying correct information. If more space is needed, copy the Additional Page, fill it out, number the entries, and attach it to this form. On the top of any additional pages, write your name and case number (if known).

1. Do any creditors have claims secured by your property?

No. Check this box and submit this form to the court with your other schedules. You have nothing else to report on this form.

Yes. Fill in all of the information below.

	Part 1:	List All Secured	Claims
--	---------	------------------	--------

Column C Column A Column B 2. List all secured claims. If a creditor has more than one secured claim, list the creditor Amount of Value of Unsecured separately for each claim. If more than one creditor has a particular claim, list the other creditors in claim Do not collateral that portion If any Part 2. As much as possible, list the claims in alphabetical order according to the creditor's name. deduct the value supports this of collateral claim

2.1		Describe the property that secures the claim: \$ 277,103.00	\$ <u>751,000.00</u>	\$ 0.00
	Citizens One Home Loan Creditor's Name 10561 Telegraph Road	240 W Woodlawn Dr, Wading River, NY 11792 - \$751,000.00		
	Number Street Glen Allen VA 23059	As of the date you file, the claim is: Check all that apply.		
	City State ZIP Code Who owes the debt? Check one.	Contingent Unliquidated		
	Debtor 1 only Debtor 2 only Debtor 1 and Debtor 2 only	Disputed Nature of lien. Check all that apply.		
	At least one of the debtors and another	An agreement you made (such as mortgage or secured car loan)		
	Check if this claim relates to a community debt	☐ Statutory lien (such as tax lien, mechanic's lien) ☐ Judgment lien from a lawsuit		
	Date debt was incurred	Other (including a right to offset) Last 4 digits of account number		
	Add the dollar value of your entries in Co	lumn A on this name. Write that number here:		

List Others to Be Notified for a Debt That You Already Listed

Use this page only if you have others to be notified about your bankruptcy for a debt that you already listed in Part 1. For example, if a collection agency is trying to collect from you for a debt you owe to someone else, list the creditor in Part 1, and then list the collection agency here. Similarly, if you have more than one creditor for any of the debts that you listed in Part 1, list the additional creditors here. If you do not have additional persons to be notified for any debts in Part 1, do not fill out or submit this page.

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EXHIBIT C SUMMARY OF ASSETS AND LIABILITIES

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Fill in this information to identify your case:						
Debtor 1	Gavin B Whiston	1				
	First Name	Middle Name	Last Name			
Debtor 2 (Spouse, if filing)	First Name	Middle Name	Last Name			
United States E	Bankruptcy Court for the:	Southern District of	New York			
Case number	24-10803 (If known)		· · ·			

Check if	this	is	an
amende	d filii	nq	

Official Form 106Sum

Summary of Your Assets and Liabilities and Certain Statistical Information 12/15

Be as complete and accurate as possible. If two married people are filing together, both are equally responsible for supplying correct information. Fill out all of your schedules first; then complete the information on this form. If you are filing amended schedules after you file your original forms, you must fill out a new *Summary* and check the box at the top of this page.

	Your assets Value of what you own
Schedule A/B: Property (Official Form 106A/B)	-275 500 00
1a. Copy line 55, Total real estate, from Schedule A/B	\$ 375,500.00
1b. Copy line 62, Total personal property, from Schedule A/B	\$ <u>164,312.62</u>
1c. Copy line 63, Total of all property on Schedule A/B	\$ <u>539,812.62</u>
art 2: Summarize Your Liabilities	
	Your liabilities Amount you owe
Schedule D: Creditors Who Have Claims Secured by Property (Official Form 106D) 2a. Copy the total you listed in Column A, Amount of claim, at the bottom of the last page of Part 1 of Schedule D	\$ <u>277,103.00</u>
Schedule E/F: Creditors Who Have Unsecured Claims (Official Form 106E/F) 3a. Copy the total claims from Part 1 (priority unsecured claims) from line 6e of Schedule E/F	\$0.00
3b. Copy the total claims from Part 2 (nonpriority unsecured claims) from line 6j of Schedule E/F	+ \$4,743,562.07
Your total liabilities	\$ <u>5,020,665.07</u>
Part 3: Summarize Your Income and Expenses	
. Schedule I: Your Income (Official Form 106I) Copy your combined monthly income from line 12 of Schedule I	\$ <u>12,526.11</u>
. Schedule J: Your Expenses (Official Form 106J)	
Copy your monthly expenses from line 22c of Schedule J	\$ <u>11,181.00</u>

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Gavin Whiston

24-10803

Debtor 1

First Name Middle Name Last Name

Case number (if known)

Pa	rt 4: Answer These Questions for Administrative and Statistical Records			
6.	Are you filing for bankruptcy under Chapters 7, 11, or 13? No. You have nothing to report on this part of the form. Check this box and submit this form to the court with your other schedules. Yes			
7.	What kind of debt do you have?			
	☐ Your debts are primarily consumer debts. Consumer debts are those "incurred by an individual primarily for a personal, family, or household purpose." 11 U.S.C. § 101(8). Fill out lines 8-9g for statistical purposes. 28 U.S.C. § 159.			
	Your debts are not primarily consumer debts. You have nothing to report on this part of the form. Check this box and submit this form to the court with your other schedules.			
8.	From the Statement of Your Current Monthly Income: Copy your total current monthly income 122A-1 Line 11; OR , Form 122B Line 11; OR , Form 122C-1 Line 14.	come from Official	\$	
9.	Copy the following special categories of claims from Part 4, line 6 of <i>Schedule E/F</i> :			
		Total claim		
	From Part 4 on Schedule E/F, copy the following:			
	9a. Domestic support obligations (Copy line 6a.)	\$		
	9b. Taxes and certain other debts you owe the government. (Copy line 6b.)	\$		
	9c. Claims for death or personal injury while you were intoxicated. (Copy line 6c.)	\$		
	9d. Student loans. (Copy line 6f.)	\$		
	9e. Obligations arising out of a separation agreement or divorce that you did not report as priority claims. (Copy line 6g.)	\$		
	9f. Debts to pension or profit-sharing plans, and other similar debts. (Copy line 6h.)	+ \$	1	
	9g. Total. Add lines 9a through 9f.	\$		